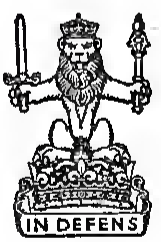
DEPARTMENT OF HEALTH FOR SCOTLAND

Local Government (Scotland) Act, 1947

Report by Mr G. C. Emslie, M.B.E., Q.C. on the Local Inquiry in the matter of a review of rents of Council houses in Dunbarton



EDINBURGH
HER MAJESTY'S STATIONERY OFFICE
1961
PRICE 1*s.* 3*d.* NET

To The Right Honourable the Secretary of State for Scotland:

1. On 4th Novemher, 1960, I was appointed by the Secretary of State to hold a Local Inquiry as to whether the County Council of the County of Dunharton had failed to do what is required of them by section 73(5) of the Housing (Scotland) Act, 1950. This subsection, which re-enacts section 47(6) of the Housing (Scotland) Act, 1935, provides that a local authority for the purposes of the Act "shall from time to time review rents and make such changes either of rents generally or of particular rents and rehates as circumstances require". The Inquiry was held in terms of section 356(1) of the Local Government (Scotland) Act, 1947. It was ordered in consequence of a complaint which had heen made to the Secretary of State hy Councillor W. J. I. Muir and other six Councillors for the Landward Area of the County on 9th May, 1960. The complainers are representative of a numher of members of the County Council who have for many years, and on many occasions, advocated the necessity for and sought to persuade the County Council to approve of, suhstantial changes, including increases, in the rent structure of County Council housing to which section 73 of the Act of 1950 applies.

2. The Inquiry was held in puhlic in Dumbarton on 10th, 11th, 12th, 13th, 16th, 17th, 18th, 19th and 20th January, 1961. I set out the parties who appeared at the Inquiry, grouping them according as they appeared in support of or against the rent policy of the County Council.

A. *In support of the Policy*
   (i) The County Council of the County of Dunharton
   (Mr. W. R. Grieve, Q.C., and Mr. W. Walker, Advocate)
   (ii) Vale of Leven Trades Council
   (Mr. J. Keeley)
   (iii) Vale of Leven Tenants' Association
   (Councillor Mrs. Kirkpatrick)
   (iv) The Communist Party, Dunhartonshire Area
   (Mr. A. Annan)

B. *Against the Policy*
   (i) Complainers
   (Mr. J. O. M. Hunter, Q.C., and Mr. W. L. K. Cowie, Advocate)
   (ii) Vale of Leven District Owner Occupiers' Association
   (Mr. J. O. Skinner)
   (iii) Cardross and District Owner Occupiers' Association
   (Mr. F. C. Wentworth).

3. Evidence was led on hehalf of the complainers, the County Council, the Vale of Leven District Owner Occupiers' Association and the Cardross and District Owner Occupiers' Association. Representations were made on behalf of the remaining parties listed in paragraph 2. In virtue of the powers conferred on me by section 355(4) of the Local Government (Scotland) Act, 1947, I cited, on the motion of the complainers, seven witnesses. Four of these witnesses gave evidence and they were—

Mr. John F. Miller, County Clerk of the County of Dunharton

Mr. George F. Primrose, County Treasurer and Housing Factor of the County of Dunbarton

Mr. James D. Smith, Town Clerk, Dumbarton

Mr. S. A. Findlay, C.B.E., General Manager, Scottish Special Housing Association Limited.

All witnesses who gave evidence at the Inquiry did so on Oath. At the end of the Inquiry the parties intimated that they did not wish to examine in advance of the Secretary of State's decision, any factual passages in this Report.

4. The complaint which was made to the Secretary of State proceeds upon the allegation that the County Council "has not over a period of years reviewed the Rents of all houses in respect of which it keeps a Housing Revenue Account and made such changes either of Rents generally or of particular Rents and Rebates as circumstances required". In evidence the period examined in considerable detail was from 7th March, 1946, to the end of 1960. Within this period there is no douht that the question of the Rents of County Council Housing was discussed on a number of occasions in two Committees of the County Council, namely, the Public Health Landward Committee, and the Finance Landward Committee, and at meetings of the County Council itself. It is also common ground that on 28th February, 1949, the County Council approved certain changes in the rents of all their houses other than temporary houses and that no change of any kind has heen made since that date. Before I attempt to address myself to the question of whether the County Council has or has not complied with the duty imposed hy section 73(5) it will he convenient to set out the history of the matter as established in evidence.

5. During the war years the rents of County Council houses remained at the level which they occupied in 1938. As at 15th May, 1945, in respect of the whole of the County Council's housing, the Exchequer contributions payahle to the County Council amounted to £27,505 and the total rate burden was £10,591. At this date the rate contrihution to the Housing Revenue Account was the statutory contrihution only and there was a surplus in that Account amounting to £13,093. In a memorandum presented to the Public Health Landward Committee on 7th Novemher, 1946, however, following upon the passing of the Housing (Financial Provisions) (Scotland) Act, 1946, the County Clerk advised the County Council that, on the hasis of the then existing rents for pre-war and temporary houses, the surplus in the Revenue Account would disappear in three years' time. On this date and on a number of occasions in 1947 the Puhlic Health Landward Committee discussed the rents of County Council houses, and, after dispensation had been granted hy the Secretary of State to certain Councillors who were tenants of County Council houses, on *26th January, 1948*, when a motion to reduce the rents of temporary houses and to increase the rents of all other houses was presented, an amendment to the effect that the whole question should he reviewed at a later date was carried. This amendment was moved and seconded hy Councillors Bissett and Taggart who, with a numerically strong group of Councillors, described at the Inquiry as the "No Action" group, consisteutly voted against any increase in any of the County Council rents. When the matter came hefore the County Council on *23rd February, 1948*, it was unanimously agreed to take no action on this meantime, and the Public Health Landward Committee was instructed to report again on the whole suhject in twelve months' time. On *31st January, 1949*, having hefore it a further memorandum from the County Clerk, this Committee carried a motion that no change he made in existing rents and that steps he taken hy the County Council towards securing a review of interest changes

and Exchequer subsidies. An amendment calling for a 50 per cent increase in the rents of all houses, other than temporary houses, was defeated. It is to be noted that at this meeting the Public Health Landward Committee had before it a further memorandum from the County Clerk which confirmed the accuracy of his forecast of 1946 and showed (a) that there was as at 15th May, 1948, a deficit in the Housing Revenue Account, which had been rated for, of £6,063, the actual deficit being £10,341; (b) that on the existing rent of £18 the rate contribution in respect of a £1,500 4-apartment house would be £26. 12s.; (c) that an increasing annual deficit must be anticipated which could only be met by an increase in rents or by contributions from the rates. The matter was also considered at about this time by the Finance Landward Committee which on *15th February, 1949*, by a narrow majority carried, against an amendment calling for no action, a motion in the following terms—

> "That from the dates before mentioned the rents of normal growth houses built under the 1919 and 1924 Acts be increased by 33-1/3rd per cent, subject to a maximum rise of £6 on any one house, and that the rents of agricultural workers houses and houses built under the 1923, 1930, 1935 and 1938 Acts be increased by 33-1/3rd per cent, and that the permanent aluminium houses and Cowieson houses and houses built under the 1946 Act, including Blackburn houses, be rented as follows:
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> 3-apt.—£28; 4-apt.—£30; and 5-apt.—£32.
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> Temporary houses to remain at £26; and that representations be made direct or through the County Councils Association to the Government calling for a revision of Exchequer subsidies for housing and of interest charges on housing loans."

There thus came before the County Council for approval on *28th February, 1949*, the decision of the Public Health Landward Committee recommending no change in rents and that of the Finance Landward Committee recommending the specific increases mentioned. At this meeting of the County Council, notwithstanding opposition by the group whose votes on all subsequent occasions, when rent increases were proposed, secured a majority in the County Council, the recommendations of the Finance Landward Committee were adopted and the rents as increased by this decision of the County Council have, subject to the effect of the Valuation and Rating (Scotland) Act, 1956, remained unchanged ever since. Down to this date I have dealt with the course of events in some detail in order to show that although increases were eventually approved by the County Council in 1949, they were opposed even at that stage, by the group within the County Council which favoured no action upon rents and which has, by the votes of its members on all relevant occasions after 1949, successfully opposed in the County Council all endeavours to make further increases in them or to remove anomalies in the rent structure.

6. After 1949 the question of rents was discussed both in the Public Health Landward Committee and in the County Council on several occasions. Before I deal briefly with the more important of these occasions I feel it would be appropriate at this stage of the report to record what information was presented to the County Council relevant to its rent structure. Throughout the period 1950 to 1960 inclusive the County Council was regularly and frequently advised by its officials, in particular, by the County Treasurer, of the worsening state of the Housing Revenue and Repairs Accounts and of the urgent need to

increase and standardise the rents of County Council houses. *Inter alia* the County Council was made aware that the annual deficits in the Housing Revenue Account which had to be met by the general body of ratepayers were as follows:

	£	
1949-50	20,623	
1950-51	35,104	
1951-52	54,308	
1952-53	91,217	
1953-54	85,763	
1954-55	109,512	
1955-56	168,394	
1956-57	208,111	
1957-58	276,961	
1958-59	268,807	
1959-60	286,450	
1960-61	323,750	(estimated)

The members were also informed that the Housing Repairs Account was running at an increasing deficit each year and that the actual deficits for the last four years were as follows:

	£
1956-57	16,278
1957-58	14,320
1958-59	10,078
1959-60	21,232

The advice given was contained in the many careful and detailed memoranda, which accompanied the Housing Estimates for 1957-58, 1958-59, 1959-60 and 1960-61; and was also given verbally. In my opinion it is unnecessary for me to set out all the information and advice given in detail and it would not be helpful to do so. I wish, however, to record certain examples of that advice and of the material placed before the County Council by the officials, in order to illustrate the background against which the actions of the County Council fall to be examined—

(a) On *3rd March, 1952*, it was pointed out that on the introduction of a new scale of subsidies and an increase in interest charges the rate contribution in respect of a 4-apartment house would be greater than rent. Having regard to the annual deficiency in the Repairs Account the annual rate contribution for such a house would be £42 as against a rent of £30.

(b) On *14th January, 1953*, the County Council was advised that its rent policy should be based upon economic rents coupled with a rebate scheme. At this date the rate burden in respect of the deficiency in the Housing Revenue Account was 2s. 10d. in the £.

(c) On *30th December, 1955*, it was demonstrated that there were wide variations in rentals which should be eliminated and that rents should be increased. Specific proposals were presented to the County Council in an Appendix to the Treasurer's report of that date and the County Council was advised that even if the increases suggested were imposed it would be necessary to review rents again in two or three years' time.

(d) On *25th January, 1956*, the County Council was urged by the Treasurer to make immediate increase in rents of 25 per cent. In a report of this date the County Treasurer said with reference to the introduction of the new Valuation and Rating system for Scotland "If however the new Act is delayed Dunbarton County Council cannot afford to postpone a revision of rents this year in view of the deficiency in the Housing Revenue Account, viz., £109,512."

(e) On *9th August, 1956*, the Department of Health Circular No. 23/1956 was placed before the Public Health Landward Committee. The attention of members was drawn to the fact that a far greater increase had taken place in earnings than in rents over the past few years. Indeed the information given in this circular upon the relationship between earnings and rents was the only material of the kind which was at any time before the County Council. It should be noted that in this circular local authorities were advised that in fixing the rents of their houses consideration must be given to the circumstances of the tenants in order to see that no subsidy was given out of the general rate to people who did not require to be subsidised.

(f) On *15th November, 1956*, the County Treasurer described the County rents, following the coming into effect of the Valuation and Rating (Scotland) Act, 1956, as "ridiculously low". He accordingly emphasised the urgent need for an upward revision of rent with effect from 16th May, 1957.

(g) On *9th September, 1957*, special attention was drawn by the County Treasurer to the recommendation that reduction in subsidy should be passed on to the occupiers of the houses and not to the general body of the ratepayers. At this date he demonstrated to the County Council that in the case of a 4-apartment house in the situation arising from the Housing and Town Development (Scotland) Act, 1957, the maximum rent was £11. 10s. or 4s. 6d. a week, whereas the rating contribution was £103 or £1. 19s. 8d. per week.

(h) On *12th September, 1957*, in a memorandum submitted to the Council by the complainer Col. Findlay, the following figures, checked by the County officials, were brought to the Council's notice. It was shown that the average rent being charged for a County Council house was 2s. 9d. per week, that the Exchequer contribution for that house was 8s. per week, and that the contribution from rates for that house was 15s. 8d. per week. It was also shown that the average cost of repair per house was 4s. 3d. per week and that there were no fewer than 100 different rentals being charged within the landward area.

(j) On *2nd June, 1958*, in a memorandum explaining the Housing Estimates for 1958-59, the County Treasurer observed that Dunbartonshire rents were the lowest in Scotland and that the estimated rent income was £21,000 lower than the estimated cost of repairs.

(k) In the autumn of 1958 the report by Mr. C. J. D. Shaw, Q.C., on the Inquiry into the rents of Glasgow Corporation houses, was issued to members of the Public Health Landward Committee.

(l) On *17th November, 1958*, the County Treasurer pointed out to the Council that the rent figures at this date looked more in keeping with the year 1908-09 than the year 1958-59 and he proceeded to make the following observations arising out of the Shaw Report:

"In view of the outcome of this very important Inquiry I feel sure that there could no longer be any difference of opinion between the members of the

Committee about the necessity to review rents and that any differences of opinion would be limited to the extent to which a revision should be made."

He also said with reference to a financial statement contained in his report dated 17th November, 1958—

"From the above figures it will be seen that the tenant's rent contribution is not sufficient to meet even half the cost of repairs and upkeep, more than 53 per cent of the normal upkeep of each house being passed on to the general body of ratepayers together with the total cost of providing houses."

He added that it was rather startling to find on examination of the available data, that the average tenant was then contributing only 1d. per week more to the Housing Revenue Account than the tenant of 1938. In this connection he said—

"In view of the increase in the gross housing rate from 5d. per £ in 1938-39 to 11s. 2d. per £ in 1958-59, it is no exaggeration to say that the Housing burden has been shifted from the shoulders of the Council tenants on to the backs of other ratepayers."

He further stated—

"If, in the light of the above figures, the County Council were to decide once again to take no action to revise rents it would be extremely difficult to prove to the satisfaction of a Court of Inquiry that in permitting tenants to occupy houses at 2s. 9d. per week, and in requiring other ratepayers to shoulder a net Housing burden of 7s. 9d. per £, the County Council are holding the balance evenly between tenants and the general body of ratepayers."

(m) On *11th December, 1958*, it was demonstrated that the tenants of pre-war 4-apartment houses, with the exception of those at Roseneath, were paying in rent less than the occupiers of these houses in 1938.

(n) On *2nd June, 1959*, in his memorandum upon the Housing Estimates for 1959-60 the County Treasurer said this—

"If it is accepted that rent must be adequate to meet the cost of repairs then the fact must be faced that the rents at present are not sufficiently high to comply with this minimum requirement. To do so the average rent would be required to be raised from 2s. 9d. per week to 4s. 2d. per week . . . Accordingly it is with regret that I now give notice that in deciding not to review rents the County Council have, in my opinion, failed to comply with the law."

(o) On *5th April, 1960*, in his memorandum on the Housing Estimates for 1960-61 the County Treasurer pointed out that rent then represented only 9·31 per cent of the total Housing income and that 58·74 per cent of that income had to be found by exacting contributions from the general body of the ratepayers. He again pointed out that in his opinion the figures alone seemed to indicate that the County Council had not fulfilled the duty imposed upon it by section 73(5) of the Housing (Scotland) Act, 1950.

(p) On *4th August, 1960*, the County Treasurer advised the County Council at least to take into consideration the following circumstances—

(1) The present level of rents and whether there are anomalies in the rent structure.

(2) The average tenant's outlay on rent as compared with his outlay on other commodities and services.
(3) Rents of other local authorities.
(4) The Housing Revenue Account.

He again emphasised that the County Council's average rent of 2s. 10d. per week was the lowest in the whole of Scotland and compared unfavourably with the average rental of 10s. per week for the hire of a television set, which, as he put it, had now invaded every home. In conclusion he said this—

"If it is accepted that rent income should at least be sufficient to defray the cost of repairs, insurance and management, and that the entire cost of borrowing and repaying loans should be met by the Exchequer and the general body of ratepayers, then the rents would require to be altered to yield additional income of £69,845 per annum."

7. I turn now to the discussions on rent which took place at meetings of the County Council, the Public Health Landward Committee and the Finance Landward Committee between 1950 and 1960 inclusive. In general it may be said that these discussions did not take place as the result of any decision by the County Council that review of rents should be carried out, nor upon any remit by the County Council to the Public Health Landward Committee to undertake such a review. Indeed, although on 23rd February, 1959, the County Council passed a resolution to the following effect—"That rents of all County Council houses be reviewed forthwith and with effect from the earliest practicable date such changes be made either of rents generally or of particular rents and rebates as circumstances may require", no steps were taken to remit the matter to the Public Health Landward Committee for action and report. All discussion which took place was the direct result of motions duly made before the Committees and the County Council calling for the imposition of particular increases in rents or for the adoption of a particular method of standardising rents. These motions came before the County Council at the instance of Councillors, including certain of the complainers, who did not belong to the group which invariably voted with Councillors Bisset and Taggart. In brief outline the history of the matter is as follows:

(a) In *1952* there was introduced a motion to increase rents and to frame rebate schemes. There was then a delay in order to obtain dispensation for those Councillors who were County Council tenants. On 19th January, 1953, the Public Health Landward Committee carried a recommendation to increase Council rents and to introduce a rebate scheme, against opposition which advocated no change of any kind coupled with the taking of steps to secure an increase in subsidy and a reduction in interest rates. On 9th February, 1953, the Finance Landward Committee voted in favour of increasing the Council rents by 20 per cent against opposition calling for no change of any kind. On 23rd February, 1953, however, the County Council carried an amendment proposed by those who favoured no action on rents that there should be no increase in rents and that a conference should be called to bring about reduction in rates of interest and an increase in Exchequer subsidies.

(b) In *1956*, after the usual delays while dispensation was obtained for Councillors who were Council house tenants, a special meeting of the Public Health Landward Committee on 15th March, 1956 defeated a motion to

increase rents by 25 per cent. On 4th May, 1956, tbe County Council endorsed this decision. On 7th September, 1956, it was decided to call a Grand Congress to demand an immediate restoration of the former subsidies. On 21st November, 1956, a motion recommending the adoption of revised rents upon a scale recommended by the Treasurer was carried in the Public Health Landward Committee in spite of opposition. On 18th December, 1956, however, when the matter came before the County Council, an amendment supported by the No Action group, to the effect that there sbould be no increase in rents, was carried.

(c) In *1957*, after notice of a motion calling for increase in rents had been given by one of the complainers, and after the usual delays in obtaining dispensation for Councillor-tenants, tbe Public Health Landward Committee on 7tb November, 1957, against opposition by members of the No Action group, recommended tbat certain proposals for increase made by the Treasurer should be adopted. When the matter came before the County Council on 17th December, 1957, however, an amendment to the effect that there should be no action on rents was carried.

(d) Between 16tb January, 1958, and 24th February, 1958, as appears from the minutes produced and from the evidence, the County Council decided upon the votes of that group of persons who always opposed any change in rents, not to assist the Scottish Special Housing Association to implement its scbeme to increase its rents, and to decline to serve notices to quit upon tbe occupiers of the Association's houses. During 1958 further attempts to induce the Council to approve of increases in rents were made. They were defeated by tbe votes of the No Action group. On 14th August, 1958, at a meeting of the County Council, requisitioned by members of tbe No Action group, it was decided to defer consideration of rents indefinitely or until the matter was competently raised in the County Council.

(e) On *11th September, 1958*, a new approach was tried by the complainers who introduced a resolution to the effect tbat the County Council should review its rents forthwith and with effect from tbe earliest practicable date make sucb changes in rents as circumstances required. Thereafter there occurred the usual delay while dispensation was obtained for Councillor-tenants. On 25th November, 1958, and 11th December, 1958, in spite of a motion that the Council sbould proceed to review rents an amendment continuing tbe matter to 12th January, 1959, was carried. On 12th January, 1959, the Public Healtb Landward Committee agreed unanimously to adopt the complainers' resolution and immediately proceeded to defeat a motion to introduce cbanges suggested in one of the draft schemes prepared by the County Treasurer. The complainers thereupon moved that Council rents should be further considered by the Committee before the County Council met on 23rd February, 1959. This motion was defeated. When the matter came before the County Council on 23rd February, 1959, the attitude of the Public Healtb Landward Committee was endorsed.

Tbe position at this stage of events was, therefore, that the County Council had approved a resolution declaring tbeir intention to fulfil their statutory duties and had rejected one proposal to make particular changes. Having rejected that proposal no remit back to tbe Public Health Landward Committee was made and indeed no action to implement the spirit of the resolution

was taken at all. On 15th December, 1959, certain complainers sought to persuade the County Council to reaffirm the resolution to which I have referred with the rider that the Public Health Landward Committee be instructed to submit proposals in implement of that resolution. There was considerable opposition by the No Action group and, in spite of advice by the County Clerk that the motion was competent (as it undoubtedly was) the Convener eventually ruled that the motion was incompetent.

(f) On *4th February, 1960*, following receipt of a letter dated 21st December, 1959, from the Secretary of State, drawing attention to the apparent failure of the Council to undertake any general review of rents over a number of years, Mr. W. J. I. Muir, one of the complainers, presented before the Public Health Landward Committee a composite motion in the following terms—

"The Public Health Landward Committee, the members of which have had the opportunity of studying the Report of Mr. C. J. D. Shaw, Q.C., to the Secretary of State for Scotland dated 10th July, 1958, on the matter of rents of houses owned by the Corporation of Glasgow, is of the opinion that Dunbarton County Council has not over a period of years carried out a general review of rents of houses owned by the County Council as required by Section 73(5) of the Housing (Scotland) Act, 1950, and that the motion submitted by him on 8th January, 1960, and included in the Agenda of this meeting in the following terms:

That rents of all County Council houses be reviewed forthwith and with effect from the earliest practicable date such changes be made either of rents and rebates as circumstances may require be approved."

By way of amendment Mr. Taggart, the Chairman, moved, seconded by Mr. Carson, that the County Council advise the Secretary of State that the rents of local authority houses are to be reviewed forthwith and that the above motion submitted by Mr. Muir, be approved. This amendment was carried. I am satisfied, however, notwithstanding the language of the minute, that the amendment which was carried was intended to adopt only the second part of Mr. Muir's composite motion. When the matter came before the County Council the decision of the Public Health Landward Committee was amended to the effect that the Secretary of State should be informed that the County Council had reviewed the rents. The Secretary of State was so informed. But this left unfulfilled the resolution declaratory of the County Council's intention to review its rents and to make such changes as the circumstances required. Accordingly, when the Housing Estimates came up for approval before the Public Health Landward Committee on 5th April, 1960, the complainers attempted to persuade the Committee not to approve of the estimates so far as relating to rent income until the Committee met again two days later when rents might come under review. The attempt was defeated. On 7th April, 1960, the County Clerk drew to members' attention the fact that no action had been taken upon the decision of the Public Health Landward Committee which appeared to have been approved of by the County Council. This decision was, of course, the decision to carry out the duty defined by section 73(5). At the meeting of this date an amendment carried by the members of the No Action group led to a request to the County Council to dispose of the Public Health Landward Committee minute of 4th February, 1960, in so far as it had not already been dealt with.

At the meeting of the County Council on 9th May, 1960, however, at the instance of the same Councillor who proposed the amendment on 7th April, 1960, the surprising decision carried by the votes of the No Action group was to remit the minute of the Public Health Landward Committee dated 4th February, 1960, back to that Committee for further consideration. It was the course of action adopted at this meeting which caused the complainers to conclude that the time had now come to make the complaint which has resulted in this Inquiry.

(g) Although the remit of the County Council, dated 9th May, 1960, came before the Public Health Landward Committee on 2nd June, 1960, action upon it was deferred until 23rd June, 1960, as the result *inter alia* of amendments proposed and carried by those Councillors who had always voted against any change in rents. At a meeting on 23rd June, 1960, in spite of an attempt to suspend standing orders to enable the Committee to consider again whether the County Council had reviewed its rent structure it was agreed to inform the Secretary of State that "The County Council was prepared to review the rents of County Council houses". When the minute of this meeting came before the County Council on 30th June, 1960, the two leading complainers sought to persuade the County Council to amend the decision of the Public Health Landward Committee by substituting for the simple word "review" the following—"That rents of all County Council houses be reviewed forthwith and with effect from the earliest practicable date such changes be made either of rents generally or of particular rents and rebates as circumstances may require." It is perhaps significant of the attitude of the group of Councillors which had on all previous occasions prevented any increase in rents that this proposal was defeated by their voting power. As the result of the decision of the County Council the County Clerk wrote to the Secretary of State on the 4th July, 1960, saying, *inter alia*

"(1) The County Council gave consideration to proposals to review rents of Council houses in May, 1956. December, 1956, and December, 1957, but on each occasion the County Council decided to take no action thereon.

(2) Your letter of 2nd June, 1960, was considered at a meeting of the County Council held on 30th June, 1960, when I was instructed to advise you that the County Council was prepared to review the rents of County Council houses. The Public Health Landward Committee will begin their review at their meeting on 4th August and I see no reason why their consideration should not be submitted to the next meeting of the County Council which is due to be held on 3rd October, 1960."

(h) In spite of the assurance by the County Council that the Public Health Landward Committee would begin a review on 4th August, 1960, a motion by certain complainers at the meeting on that date to the effect that the Committee should now proceed to review rents, was defeated on an amendment supported by the No Action group. The effect of the amendment was that a special meeting should be called to deal with the matter. After discussion on 11th August, 1960, the Public Health Landward Committee met again on 19th August, 1960. At this meeting a motion by certain Councillors who favoured the complainers' point of view was made to the following

effect—viz. As a temporary measure, and with effect from the earliest practicable date, the County Council should adopt scheme 4 as contained in the County Treasurer's statement and should again agree to review rents as required by section 73(5) of the Housing (Scotland) Act, 1950, as soon at the gross annual values of the local authority owned houses shall have been determined in accordance with the provisions of the Valuation and Rating (Scotland) Act, 1956. This motion was defeated upon an amendment, carried by the votes of those who always voted against any increases in rents, to the effect that the County Council be recommended to take no action on the rents of County Council houses. In spite of opposition by the complainers and others of like opinion, when the minute of this meeting of the Public Health Landward Committee came before the County Council on 3rd October 1960, and notwithstanding an attempt by some members of the No Action group to delay consideration of this minute, the minute was approved. Since 3rd October, 1960, no further consideration has been given by the County Council to the rent structure within the landward area.

8. Two further episodes which have, in my opinion, a relevant bearing upon the attitude of the County Council to the rents to be charged for County Council tenants fall to be noticed. The first episode is in connection with houses erected and to be erected by Cumbernauld Development Corporation, some of which were to be made available to accommodate applicants for County Council tenancies. The attitude initially adopted by the County Council was that the houses allocated should be leased from the Development Corporation at Development Corporation rents (which were substantially higher than County Council rentals) and thereafter sub-leased to County Council tenants at the County Council rents, making the difference between the two rentals a charge upon the general body of ratepayers. The final decision of the County Council on this matter, taken on 13th July, 1959, was to purchase 64 of these houses as they became available and let them to County Council tenants at County Council rents. The consequences of this decision, as expressed by Mr. Taggart in answer to a question put to him at a meeting of the County Council on 9th May, 1960, are as follows and require no comment:

> "The estimated rate burden per house per annum would be £120. 10s. 3d. and for 64 houses the estimated annual rate burden would be £7,712. 16s. Taken over the statutory period of 60 years the aggregate estimated rate burden would amount to £462,768.
>
> On the other hand, if the Development Corporation were to grant tenancies to 64 families nominated by Dunbarton County Council, the cost on the basis of the overspill contribution chargeable to Glasgow Corporation would be £14 per house for ten years. Accordingly, the annual cost for 64 houses would be £896, making an aggregate rate burden of £8,960 for the ten years."

The second episode concerns the rents charged for 144 new all-electric County Council houses with underfloor heating at Old Kilpatrick, Auchentoshan and Golden Hill, and for lock-up garages erected for the cars of County Council tenants at Old Kilpatrick and Renton. For the garages it was decided by the Public Health Landward Committee in December, 1960, to charge 12s. 6d. per week, which was agreed to be a reasonable sum which would meet the annual expenditure on these garages. This charge was approved by the County Council on 6th December, 1960. For the houses it was decided to charge what the

Chairman of the Committee (a Councillor who had always voted against any increase in rents) described as the "usual nominal rent", viz., an average of 2s. 10d. per week. This decision had not by the date of the Inquiry been approved by the County Council.

9. In order to complete my review of the course of events and of the facts relevant to rents which were communicated to the County Council at appropriate times I wish to draw attention to the following facts established in evidence:

(a) As appears from Command Paper 944 entitled "Rents of Local Authority Houses in Scotland, 1959" the average standard rent charged by Dunbarton County Council to its tenants is £7. 7s. 4d. *per annum*, a sum which is not only the lowest rent charged by any local authority in Scotland but is very substantially lower than the lowest rent charged by any County Council in Scotland. A fair comparison may be made with the County of Renfrew where the annual average rent is £29. 0s. 7d. The average rent charged for local authority housing in Scotland is £22. 9s. 1d.

(b) The rents charged by the Burghs within the County of Dunbarton, which are to be compared with the County figure of £7. 7s. 4d. *per annum*, are as follows:

	£	s.	d.
Cove and Kilcreggan	26	9	7
Clydebank	13	11	10
Dumbarton	24	16	10
Helensburgh	33	18	7
Kirkintilloch	24	16	11
Milngavie	55	19	2
Bearsden	31	3	5

It is to be noted that Bearsden acquired Burgh status for the first time in May, 1958, and took over all local authority housing within its new administrative area, all the tenants thereof, and the County Council housing waiting list so far as applicable to the Burgh. The new Burgh at once increased the rents of the houses thus taken over to £31. 3s. 5d. *per annum*.

(c) From the evidence of the County Clerk, the Town Clerk of Dumbarton, the County Treasurer, Mr. Findlay (the General Manager of Scottish Special Housing Association Ltd.), Mr. Rogerson of the Co-operative Permanent Building Society, Mr. Christie (a member of Bearsden Town Council and a former County Councillor) and Mr. W. J. I. Muir; and from an examination of rents which are paid in all other local housing authority areas in Scotland; I am entirely satisfied that as regards ability to pay rent, the average tenant of a County Council house in the landward area of Dunbartonshire is in no different position from his counterpart in comparable industrial areas in Scotland and England where far higher rents are charged and paid, and in particular in the Burgh of Dumbarton itself. Indeed Mr. Taggart, the leading policy witness for the County Council, agreed in evidence that it would not be unreasonable to expect the average County Council tenant to be able to afford and to pay a rent at least equivalent to the weekly hire charge of a television set, viz., 10s. per week.

(d) Per head of population the landward area of Dunbarton is by far the highest rated area in Scotland. According to Mr. Muir's calculations the

Dunbartonshire figure of £16. 6s. 7d. falls to be compared with the sum of £11. 3s. 4d., the average for Scotland. As the evidence disclosed, ratepayers in the landward area of the County of Dunbarton who now pay approximately 10s. per £1 in rates to meet the deficiency in the Housing Revenue Account, pay 23 per cent more in rates per head than their counterparts in the four Counties of Lanark, Renfrew, Stirling and Ayr.

(e) Tenants of privately owned houses in the landward area of the County of Dunbarton, and in particular in the Vale of Leven, pay rents varying in amount between £22. 15s. and £33. 12s. per annum. The houses for which these rents are paid are in general inferior to the local authority houses which are nearby and are occupied by persons who are at least no better able than most tenants of County Council houses to pay for accommodation.

(f) With possibly two exceptions all other local authorities in Scotland which are included in the Rating Review have on at least one occasion since 1949 increased the rents which they charge to their tenants. It is to be observed particularly that the Burgh of Dumbarton, which had increased its rents in May, 1957, increased them again with effect from 18th November, 1960.

10. Against the background of the findings which I have set out in the preceding paragraphs I now proceed to examine section 73(5) and to consider whether and to what extent the County Council has failed to do what is required by that subsection. I am of opinion, and indeed it was common ground between the complainers and the County Council, that the requirements of this subsection are mandatory. If support should be thought necessary for this construction of the subsection it is to be found in the opinion of *Danckwerts J.* in *Smith v. Cardiff Corporation No. 2 1955, Ch. 159 at 169*; and in the opinion of *Hodson LJ.* in *Bathavon* R. D. C. v. *Carlile 1958, 1QB.461 at 465.* It was and is accordingly the positive duty of the County Council of Dunbarton "from time to time to review rents and make such changes either of rents generally or of particular rents and rebates as circumstances may require."

11. The first question which had to be resolved by the Hon. Lord Kilbrandon (Mr. C. J. D. Shaw, Q.C., as he then was) at the Inquiry which he conducted in June, 1958, on the matter of a review of the rents of Corporation houses in Glasgow, was: what is the meaning of the words "from time to time"? This question is not of importance in the present inquiry. In the first place it is implicit in the contentions of the County Council, and indeed was expressly admitted by their leading policy witness Mr. Taggart, that the time for action in obedience to the statutory duty arose on at least three occasions between 1949 and 1960, viz.: in 1953, 1956 and 1957. In the second place the County Council on 23rd February, 1959, resolved that they proposed to review rents and to make such changes either of rents generally or of particular rents and rebates as circumstances required. In the third place the County Council on 30th June, 1960, resolved to inform and did inform the Secretary of State that they were prepared to review rents and that the review would begin on 4th August, 1960. I have no doubt that "from time to time" means the same as "as often as occasion arises" and that the judge of whether such an occasion has arisen is the County Council. I have equally no doubt that in the judgment of the County Council the occasion did arise in at least five of the ten years between 1950 and 1960.

12. The only question accordingly which arises upon the evidence is whether

on any of the occasions when the statutory duty imposed by section 73(5) fell to be carried out, the County Council did or did not review its rent *and* make such changes . . . as circumstances required. In order to answer that question it must first of all be determined what is meant by "review". In my opinion it means, in the context in which it appears, a critical re-examination of the rent structure within the area with a view to possible alterations therein. This construction was the one suggested by Mr. Hunter for the complainers and I understood it to be broadly accepted by Mr. Grieve for the County Council. The second branch of the duty is perfectly clearly expressed in section 73(5) and the only question which arises in this connection is: who is the judge of whether circumstances require changes to be made? In my opinion this duty, like the duty of determining whether an occasion for review has arisen, is confided to the local authority, under the general powers of management conferred by section 71(1). I do not feel able to accept a primary submission by Mr. Hunter to the effect that it is for the Secretary of State to say whether or no circumstances required a change in rents. Section 73 must in my opinion be read in conjunction with section 71 in which it appears that the fixing of the rent charges for any house is in the discretion of the authority concerned. It is to be observed however that the charges which the local authority has a discretion to make must be such *reasonable* charges as they may determine and it follows, in my opinion, that the object of any change effected as the result of review under section 73(5) must be to produce *reasonable* rent charges. Section 71 further provides that the general management regulation and control shall be vested in and exercised by that authority. I am fortified in the approach to the subsection which I have taken by the English cases of *Smith v. Cardiff Corporation cit. sup.*; *Summerfield v. Hampstead Borough Council* 1957 1WLR 167 and *Belcher v. Reading Corporation 1950 Ch. 380.* These cases lead me to conclude that in considering such a question as I have posed the Court will not attempt to resolve it by applying purely objective tests but will confine itself to an examination of the steps taken and the factors considered by the local authority in reaching their decision to make no change in the rents. In other words the Court will consider only whether the local authority has reached its decision upon an assessment of the whole relevant factors and in good faith. To do more would result in the management and control of local authority houses being largely diverted from the authorities to whom the legislature has entrusted it (*Belcher cit. sup.—per Romer J.* at p. 391). The conclusion which I reach on this whole matter is that there is a two fold duty imposed upon the local authority by section 73(5) (firstly) to make on the relevant occasions a critical re-examination of their rent structure with a view to possible changes and (secondly) in light of that critical re-examination to make such changes to produce reasonable rent charges as, in their judgment and discretion properly exercised in good faith, the circumstances require.

13. It now becomes important to inquire what is involved in a proper exercise of discretion by a local authority which has claimed, as Dunbarton County Council claims, to have discharged its duty under section 73(5). In my opinion the decisions of a local authority in purported implement of its duty under section 73(5) cannot be supported if—

(a) it is shown that they took into account in reaching these decisions irrelevant facts and opinions which might vitiate judgment; or

(b) if it is shown that in reaching these decisions factors which ought to have been considered were ignored; or

(c) if the decisions are themselves so unreasonable that no reasonable local authority duly discharging its duty could have reached them.

There is, in my opinion, ample warrant for these general propositions in authority and I understood Mr. Grieve for the County Council to accept them. In this connection it will perhaps be sufficient if I refer to the cases of *Associated Provident Pictures v. Wednesbury Corporation 1948 IKB 223 per Lord Greene MR at pp. 233-234*; *Roberts v. Hopwood 1925 AC 578 at pp. 594, 595, 599, 603, 605 and 613*; *Taylor v. Munrow 1960 1WLR 151*; *Belcher cit. sup.*; *and Summerfield cit. sup.* In amplification of the general propositions which I consider to be applicable, it should be borne in mind that in discharging its functions under section 73 of the Housing (Scotland) Act, 1950, the local authority owes a duty to the general body of the ratepayers which is not unlike that owed by trustees to beneficiaries or, at the lowest, that owed by directors of a public company to their shareholders. The local authority must accordingly in fulfilling its obligations under section 73(5) "try to hold the balance evenly between the Council house tenants and the general body of ratepayers", (*Summerfield cit. sup.* per Harman J. at p. 171). In this connection I cannot do better than to quote from the speech of Lord Atkinson in *Roberts* cit. sup. at p. 595. In that case the Burgh of Poplar had decided they would pay to their employees, male and female, a minimum wage of £4 per week, largely on the ground that a public authority ought to be a model employer. These wages were quite out of line with current wage rates for equivalent work. The Auditor surcharged the members who had voted for this proposal with the difference between £4 per week and a reasonable wage, and the House of Lords held that he was right. At p. 595 Lord Atkinson said this:

> "This system of procedure might be admirably philanthropic, if the funds of the council at the time they thus administered belonged to the existing members of that body. These members would then be generous at their own expense. . . . The indulgence of philanthropic enthusiasm at the expense of persons other than the philanthropists is an entirely different thing from the indulgence of it at the expense of the philanthropists themselves. The former wears quite a different aspect from the latter, and may bear a different legal as well as moral character. A body charged with the administration for definite purposes of funds contributed in whole or in part by persons other than the members of that body owes, in my view, a duty to those latter persons to conduct that administration in a fairly businesslike manner with reasonable care, skill and caution, and with a due and alert regard to the interest of those contributors who are not members of the body. Towards those latter persons the body stands somewhat in the position of trustees or managers of the property of others."

In light of the principles which I have set out it follows, in my opinion, inevitably, that in reviewing its rent structure and in deciding whether to increase rents or to leave rents unchanged, a local authority must take into account (i) the effect upon ratepayers who are not Council tenants of leaving rents unchanged, and (ii) the ability of its tenants to pay in rent, higher sums than they are required under the existing rent structure to meet. In these connections it is in my

opinion proper and essential that the local authority should have particular regard to changes in the value of money and in the level of earnings which have occurred by the time when it is deemed necessary to review its rent structure. If all these considerations are correctly applied there is no reason at all why a review of rents should not have the effect of easing the burden upon the poorer tenants, of making it easier for the poorer tenants to get Council houses and of making it impossible for better-off tenants to occupy houses at rents which may make them a burden on their neighbours and an obstacle to the proper housing of persons less well off than themselves. That this result should be capable of achievement upon a *bona fide* discharge of the duty imposed by section 73(5) appears to be intended by the provisions of section 73(4) which empowers the local authority concerned to grant to any of its tenants "such rebates from rent subject to such terms and conditions as they may think fit."

14. In the submission of the complainers the County Council of Dunbarton has not properly exercised its discretion in relation to the discharge of its duties under section 73(5). For the County Council it was contended that in reaching its decisions all relevant material as contained in the memoranda and reports provided by the officials was duly taken into account. In my opinion, upon the evidence, the only possible conclusion which I can reach is that the County Council's decisions not to make any changes in its rent structure were manifestly not arrived at upon a proper exercise of its discretion.

15. If it were necessary for me only to approach my task in this way, an examination of the course of events contained in the minutes produced before me and of the whole material contained in the memoranda and reports by the officials, a synopsis of which is given in paragraphs 6-9 above, would enable me to conclude without difficulty that no reasonable local authority, properly and fairly applying its mind to the relevant factors, could have reached the decisions taken by Dunbarton County Council. It is however quite unnecessary for me to rest my conclusion upon this basis and I therefore do not propose to elaborate this approach further. In view of the evidence to which I listened I have no hesitation in concluding that throughout the period 1950-60, on the many occasions on which it was alleged that review of rents was being carried out, the decisions to make no change of any kind in rents were arrived at in bad faith, upon grounds which were quite irrelevant, and by deliberately ignoring factors which should have been taken into account. From the evidence of Mr. Muir and Col. Findlay it appeared that whenever the rent structure was being discussed either in Committee or before the County Council those whose votes carried the decisions to make no change in rents were only concerned to argue that housing was a "social service" and that the plight of the ratepayers should be eased not by an increase in rents but by action on the part of the Central Government to reduce interest rates and increase subsidies in the form of Exchequer grants. In short the evidence of these gentlemen was to the effect that a review of the rent structure was never tackled upon its merits. That this was a fully justified conclusion manifested itself in the clearest possible way in the evidence of Mr. Taggart, the leading policy witness for the County Council, and of his two supporting witnesses, Mr. Cannon and Mr. McCulloch. According to Mr. Taggart, those who consistently voted against any change in the rent structure held a private meeting before every meeting of the County Council at which rents were to be discussed, and determined

at the private meeting precisely how each member would vote when the matter came up before the County Council. When there was a conflict of opinion at the private meeting members were required to comply with the decision of the majority. This in practice involved a decision taken at the private meeting to vote against any change in rents and there was no known instance in Mr. Taggart's experience in which any member of the group which opposed rent changes ever voted otherwise than in accordance with the decisions taken at the private meetings. In these circumstances one is permitted to wonder how it could reasonably be contended that the decisions taken by the County Council to make no change in rents were arrived at in good faith. It is unnecessary to speculate upon this matter, however, because Mr. Taggart, while stoutly maintaining that the duty imposed by section 73(5) had been discharged in good faith upon a proper study of the materials contained in all the reports and memoranda of the officials, declared on several occasions during his cross-examination by Mr. Hunter that it was and is the set policy of the County Council (and in this he had in mind those who, with him, in fact determined that policy) to take no action whatever upon rents until the Central Government provides more funds by way of increased subsidies and at the same time reduces interest charges. Unfortunately the matter does not end there because Mr. Taggart went on to explain that by this policy it was intended to bring pressure on the Central Government to reduce interest rates and increase subsidies. It was also, according to Mr. Taggart, part of the set policy to introduce no rebate schemes until the Government had reacted in the way desired. This evidence from Mr. Taggart, which I accept as accurately representing the true position, makes it quite ludicrous to pretend that any *review* of rents within the meaning of section 73(5) ever took place between 1950 and 1960 and that any true consideration was given at all to any of the relevant factors which the County Council was bound to examine in discharging its statutory duty. Indeed in my opinion it is all too clear that Dunbarton County Council has used its discretionary power not with a view to implementing the purposes of the statute which imposed the duty but in order to enforce a change of Government policy of which they do not for political reasons approve. Such action is a travesty of good faith and involves the exercise of a discretion for a wrongful end. As Vaisey J. said in *Prescott v. Birmingham Corporation 1955 1 Ch. 210 at 225*: "The Corporation seem to me to be attempting by this scheme to usurp the functions of the legislature and to redress what they consider to be a nation-wide grievance by local administrative methods". Standing this set policy of the County Council, in the full knowledge of the correct approach to their statutory duty which had been drawn to their attention by the County Treasurer and in the Report by Mr. C. J. D. Shaw, Q.C., one cannot escape the conclusion that the majority, at the relevant meetings of the County Council, attended the so called Review meetings of the Council with tongue in cheek and with cynical and deliberate disregard of the duty of trust which was and is theirs towards the general body of the ratepayers.

16. What I have said in the foregoing paragraphs of this Report would in my opinion be quite sufficient to support the conclusion that the County Council of Dunbarton has failed in the period 1950 to 1960 to discharge its duties under section 73(5). The startling extent of that failure is, however, further illustrated by many passages in the evidence of Mr. Taggart, and I feel that it

would be proper to mention some of the particular topics with which he dealt. In so far as his evidence on these topics consisted of admissions they could hardly have been withheld, if, as he told me, it was the set policy of the County Council to make no change in rents. According to Mr. Taggart, and indeed his two supporting witnesses, reduced subsidies and increased interest charges were grounds for keeping rents at their existing level. This was a contention attempted on behalf of Glasgow Corporation in the 1958 Inquiry and like the learned Reporter on that occasion I have been quite unable to discover in the evidence any intelligible explanation for this view. Indeed it appears to me that increased interest charges and reduced subsidies are *prima facie* grounds for increasing rent. Mr. Taggart also told me that they utterly disregarded in all the so-called reviews of rents, the ability of their tenants to pay. Not only did they fail to examine this aspect of the matter but they positively ignored, in my opinion, what they well knew of it. I refer in particular to Mr. Taggart's evidence in which he admitted that a majority of tenants could well afford 10s. per week in rent for a television set, that many could afford 12s. 6d. per week for a garage, and, after some curious hesitation, that most tenants could well afford to pay at least 10s. per week for the rent of a house. Mr. Taggart agreed that a rent of at least 10s. per week would be a reasonable rent for County Council tenants to pay and accepted the description "nominal" for the rent of 2s. 10d. per week actually being charged. This concession was not, to me, surprising since the sum of 2s. 10d. per week represents less than one-third of the weekly cost of a television set, less than a quarter of the weekly cost of a garage and less than half the weekly cost of repairs. Further Mr. Taggart admitted that in none of the so-called reviews of rent did the majority at the meetings concerned, pay any attention to rising building costs and the increasing cost of repairs. As Mr. Taggart put it, it was an inevitable result of the set policy of the County Council that all increases in outgoings should fall wholly on the shoulders of the ratepayers. It is equally plain that no attention was given to the very serious financial position into which the Housing Revenue Account had fallen even before 1956 and Mr. Taggart frankly admitted that but for the set policy of no action, attention would have been paid to it. Similarly, according to Mr. Taggart, it was part of the policy of the County Council to ignore the striking comparison between the rents charged for their own houses and rents charged in comparable local authority housing areas in Scotland. Finally Mr. Taggart explained to me that he and his fellow members of the No Action group well knew that the result of the policy was fortunate for the tenants and unfortunate for the ratepayers. For some reason, which escaped me, he would not accept the word 'unfair'. Nevertheless he made it quite clear that the County Council was not holding the balance evenly between the tenants and the general body of the ratepayers and at one point in his evidence attempted to say that the County Council was not responsible for this state of affairs. Needless to say he later departed from this assertion and the effect of his evidence as a whole showed that although the County Council was conscious of the increasing burden being borne by the ratepayers in subsidising many persons who could well afford to pay much more than the 'nominal' rent of 2s. 10d. per week, they deliberately ignored it.

17. The serious nature of the Inquiry which I have conducted is apparent when it is remembered that the main consequence of the Council's failure

properly to exercise its discretion has been in effect for many years the payment of ratepayers' money to persons not entitled to it, namely, tenants who could, but do not, pay a reasonable rent. This is a consequence which has caused great distress amongst ratepayers who are not Council tenants and I accept from the evidence of Mr. Skinner and Mr. Wentworth that in many cases it has caused hardship as well. In these circumstances it is all the more deplorable, in the eyes of the ratepayers as a whole, that this consequence should have flowed:

(i) from the actings of many Councillors who are themselves tenants of Council houses; and

(ii) from the actings of a County Council in face of warnings and ample advice over many years that their conduct was in breach of their statutory duty and would almost certainly lead to the considerable expense of the Inquiry which I have carried out.

18. The conclusions at which I have arrived are:

(1) That the County Council is bound, in terms of section 73(5) of the Housing (Scotland) Act, 1950, from time to time to review rents and to make such changes either of rents generally or of particular rents and rebates as circumstances may require;

(2) that section 73(5) re-enacts in a consolidating statute what was already the obligation of the County Council under section 47(6) of the Housing (Scotland) Act, 1935;

(3) that the occasion for review arose at least five times between 1950 and 1960 inclusive;

(4) that the County Council has claimed on some of these occasions to have carried out 'review' within the meaning of section 73(5);

(5) that the County Council has not in good faith and upon a proper exercise of its discretion carried out between 1950 and 1960 any 'review' of rents within the meaning of section 73(5) in as much as—

(a) the set policy of the County Council precluded any genuine review of rents;

(b) the decisions to make no change in rents were arrived at upon grounds which were irrelevant and not supported by any relevant evidence;

(c) the said decisions were deliberately made for reasons which were unconnected with the due performance of the Council's duties under section 73(5);

(d) the said decisions ignored almost every factor which it was essential for the Council to take into account if they were properly to exercise their discretion;

(6) that in view of the foregoing conclusions it is unnecessary to determine whether there occurred in 1949 a review of rents within the meaning of section 73(5).

19. Certain submissions were made to me in the matter of expenses. I do not report on that question but leave it to the Secretary of State. It is perhaps, however, relevant for me to observe that the Inquiry was deliberately courted by the No Action group in the County Council and that it would be unfortunate if the ratepayers as a body should have to bear the ultimate costs of this

deliberate course of conduct. Perhaps, however, standing the surcharge provisions of the Local Government (Scotland) Act, 1947, this result need not follow.

20. In conclusion I should like to express my appreciation of the considerable assistance so freely given to me in my task by Mr. H. G. Rutherford, Clerk to the Inquiry.

(Sgd.) G. C. EMSLIE.

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